

IN THE COURT OF APPEALS
AT KNOXVILLE

FILED
February 29, 2000
Cecil Crowson, Jr.
Appellate Court Clerk

PAM DAWN HASKETT)	CUMBERLAND COUNTY
)	E1999-01471-COA-R3-CV
Plaintiff-Appellee)	
)	
v.)	HON. STEVEN C. DOUGLAS,
)	JUDGE
)	
MARK ALAN HASKETT,)	
)	
Defendant-Appellant)	REVERSED AND DISMISSED

CYNTHIA FIELDS DAVIS OF CROSSVILLE FOR APPELLANT
JOHN B. NISBET, III OF CROSSVILLE FOR APPELLEE

O P I N I O N

Goddard, P.J.

This is an appeal from an order of protection entered by the Cumberland County General Sessions Court. Mark Haskett, Defendant-Appellant, asserts that the Cumberland County General Sessions Court was not the proper venue for an order of protection.

We glean the facts of this case from a Statement of Evidence and Supplemental Statement of Evidence filed by the Appellant. On October 29, 1998, Pam Haskett filed a petition for an order of protection in the Cumberland County General Sessions Court. On November 16, 1998, counsel for Mark Haskett moved that the petition be dismissed for lack of venue and improper jurisdiction. The Court denied the motion to dismiss.

Mrs. Haskett testified as follows: she was not a resident of Cumberland County. She listed her address as "Protective Services Hamilton Co." on an information sheet for the order of protection. She was hiding from Mr. Haskett somewhere near Chattanooga with their child because she feared Mr. Haskett. The petition for the order of protection states: "while in Cumberland [County] on 4/98 Mark was charged with domestic assault. Due to threat of death I dropped this charge. Since then he has continually threatened me." As a result, she felt fearful outside of Cumberland County, but named no such occasion in Cumberland County.

Mr. Haskett testified he was not a resident of Cumberland County. Mr. Haskett's listed address on the petition was in Robertson County; but on the date of the hearing, he was a resident of the State of Georgia. Neither he nor Mrs. Haskett had been residents of Cumberland County for at least three months prior to the filing of the petition.

Mr. Haskett asserts that the Cumberland County General Sessions Court was an improper venue for the petition for an order of protection. Mr. Haskett argues Tennessee Code Annotated Section 36-3-601(3)(C) provides that the only general sessions court with proper venue is the general sessions court in the county where Mr. Haskett resides. Tennessee Code Annotated Section 36-3-601 is a definitions section for the Domestic Abuse part of the Tennessee Code. T.C.A. § 36-3-601(3) defines the term "court" and establishes the court with proper subject matter jurisdiction over domestic abuse in the different counties of the State of Tennessee. Mr. Haskett's reliance on T.C.A. § 36-3-601(3)(C) is misguided because his issue on appeal is the proper venue for this case.

Venue is the right of a defendant to be sued in particular counties, and venue may be waived if a timely objection is not made. See Kane v. Kane, 597 S.W.2d 559, 560 (Tenn. 1977). The venue statute applicable to this case is

Tennessee Code Annotated Section 20-4-101 which describes the proper venue for transitory actions. "Transitory actions are actions for causes that may have happened anywhere . . . [such as] personal injuries may have been inflicted anywhere." Curtis v. Garrison, 211 Tenn. 339, 342, 364 S.W.2d 933, 934 (1963).

Tennessee Code Annotated Section 20-4-101 provides as follows:

(a) In all civil actions of a transitory nature, unless venue is otherwise expressly provided for, the action may be brought in the county where the cause of action arose or in the county where the defendant resides or is found.

(b) If, however, the plaintiff and defendant both reside in the same county in this state, then such action shall be brought either in the county where the cause of action arose or in the county of their residence.

(c) Where the action is brought either in the county where the cause of action arose or in the county where the defendant resides, process may be sent to another county as in local action, and it shall not be necessary nor required that the defendant be in the county of action either when the action is commenced, or during the time between the commencement of the action and service of process.

Mrs. Haskett argues venue was proper in Cumberland County pursuant to T.C.A. § 20-4-101(a) because the cause of action arose there in April 1998 when "Mark [Haskett] was charged with domestic assault." However, as stated in the petition for order of protection, Mrs. Haskett did not pursue the charge for domestic assault because Mr. Haskett threatened her. The petition further stated that Mr. Haskett continued to threaten her. Mrs. Haskett was not specific, either in the petition or

her testimony, regarding the times and places that Mr. Haskett threatened her. The petition was filed in order to stop the continued threatening after Mrs. Haskett had dropped the April 1998 domestic assault charge. It is unclear when and where this continued threatening occurred. Therefore, it is unclear whether the petition was filed where the cause of action arose. Because the petition was not filed in the county where the cause of action arose or the county where Mr. Haskett resides or is found, the Cumberland County General Sessions Court was an improper venue.

For the foregoing reasons the judgment of the Cumberland County General Sessions Court is reversed, the petition for order of protection is dismissed, and the case remanded to the Trial Court for collection of costs below which are as are costs of appeal adjudged against Mrs. Haskett.

Houston M. Goddard, P.J.

CONCUR:

Herschel P. Franks, J.

Charles D. Susano, Jr., J.